

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

CHARLES A. BYRNE

Serial No. 10/701,052

Filed: November 3, 2003

For: IMPROVED METHOD FOR
MANUFACTURING ANIMAL
CHEW TOY

Group Art Unit: 1732

Examiner: Stefan Staicovici

Docket No. MAMMO-44436

DECLARATION OF CHARLES A. BYRNE
UNDER 37 CFR 1.131

I, Charles A. Byrne, declare that:

1. I am the sole inventor of the subject matter of the above-identified application, which claims priority from U.S. Patent Application Serial No. 10/414,630, filed April 15, 2003, which claims priority from U.S. Provisional Application Serial No. 60/372,849, filed April 16, 2002.

2. I am the President of CB Worldwide, Inc. (hereinafter referred to as "CB"), the assignee of the above-identified application.

3. I have worked in the field of pet toys for over 20 years. A copy of my Curriculum Vitae is attached as Exhibit A.

4. My review of drawings, documents and other materials documenting my conception and reduction to practice of the subject matter of the present application evidences that I invented my method for manufacturing and an animal chew toy prior to the January 31, 2002 filing date for U.S. Patent No. 6,672,252 to Levin et al.

5. Between 1995 and 1998, while developing and marketing dog chew toys, I discovered that rubber with nylon embedded in the rubber had beneficial qualities for a dog chew toy. During this time I had considered actual tires and various shapes for dog chew toys using similar material but was not aware of a manufacturing process to produce such products at the time.

6. Between late 1998 and 1999, after considering a small car tire for dogs and bone shapes made from knotted strips of tire sidewalls, I determined that, at the time, these products had manufacturing constraints.

7. Around September 2000, I was presented with a small lawn mower tire as a dog toy. I investigated this item but found there were several problems: dogs were able to easily tear apart the rubber, the lawn mower tire was too heavy, and dogs didn't like the solid rubber. However, this revitalized my interest in pursuing tire-shaped toys for dogs.

8. During this same time, around September 2000, while at a hardware store, I discovered small 10" pneumatic tires/2 ply nylon with metal rim that were

used for trailers, hand trucks and wheel barrows. I purchased this item and removed the metal rim and tested it with dogs. The dogs liked this item. I thought this was a desirable item and decided to pursue improving this type of molded product for use as dog chew toy.

9. Between September 2000 and January 2001, I started investigating small pneumatic tires from various suppliers - Northern Tools catalog, GBC tire sales, Carlisle Tire. While at Do-It Center, I found an 8" diameter size hand truck tire and thought that smaller sizes under 10" would be desirable. (See 1/06/01 Do-It Center and 1/8/01 Northern Tool proof of purchases attached hereto as Exhibits B and C).

10. I found that purchasing tires through U.S. sources would be too expensive for a tire dog chew product to get to market since it would be too expensive at retail. I also discovered during this period that the small pneumatic tires had one major problem – they had a metal wire bead that when the dogs chewed into this section of the tire the metal bead could hurt the dog's mouth. I therefore concluded that the tires should not have a metal wire bead. Because of the U.S. tire cost and the desire for a custom tire, I started investigating foreign sources of small tires.

11. I discovered that Chinese hand truck and wheel barrow manufacturers also made small tires under 10" diameters. I started contacting several Chinese tire factories.

12. In January 2001, I found several Chinese factories that had an acceptable cost and was willing to start developing custom pneumatic tires under 10" diameter. Unfortunately these factories could only produce tires with metal wire beads.

13. I investigated several methods to eliminate the wire metal bead. I suggested plastic beads or using the nylon mesh fibers in a special fashion that would create a supporting bead section. Many of the Chinese factories indicated that they could only produce tires with metal wire beads. However, two factories were willing to try and create tires using my suggested methodology, that is, replacing the wire metal bead with synthetic nylon fibers instead. Between January and February of 2001, as shown in Exhibit D, I corresponded with these two factories regarding the creation of the small pneumatic tires without any metal, and instead the use of synthetic fibers.

14. I wanted the animal chew toy to have the appearance and characteristics of a small pneumatic tire. Thus, rubber material, comprising natural or synthetic rubber, was mixed with carbon black to create a tire rubber material. Synthetic fibers, such as nylon fibers, were embedded in the rubber material to replace the metal bead. That is, the mesh fabric floss material was placed between first and second layers of the rubber material so as to be embedded therein. The sheets were cut into strips, which were then formed, using compression molding, to create the animal chew toy. The result was an animal chew toy that had a tire configuration. To make the animal chew toy

more appealing to both the dog and owner, I decided to add a scent, such as spearmint, to the rubber material.

15. Between February and May of 2001, the Chinese factory produced sample animal chew toys having a tire configuration, without metal bead, but instead manufactured as described herein and in my patent applications (see Exhibit E).

16. Around June 2001, I exhibited the tires for dogs at the San Diego Convention Center at the America Pet Product Manufacturing Association (APPMA) trade show.

17. Between Fall 2001 and Spring 2002, final manufacturing glitches were eliminated so as to be able to mass produce the animal chew toy. My first retail order was shipped around March 2002.

18. I filed U.S. Provisional Application Serial No. 60/372,849 on April 16, 2002.


19. The tire animal chew toys were a huge success at retail. I decided to continue development of additional rubber pet product with 2 ply and 4ply nylon (e.g., rope for dogs) and developed various shapes (bone, flyer, retriever) with 2ply and 4ply nylon.

20. Due to continual R&D and new discoveries, I filed the instant application.

21. The undersigned declares that all statements made herein of my own knowledge are true and all statements made on information and belief are

believed to be true; and these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such false statements may jeopardize the validity of the application or any registration resulting thereon.

Dated: December 5, 2005


Charles A. Byrne

Attachments:
Exhibits A – E

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